

Message Text

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ACTION L-03

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 0000

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E.O. 11652: N/A

TAGS: ASAF, APER, VE

SUBJ: MARACAIBO TRAFFIC ACCIDENT

REF: STATE 282546

1. EMBASSY HAS BEEN ADVISED THAT THE INSURER'S RESPONSIBLE OFFICER WILL PRESENT A WRITTEN CONFIRMATION OF THEIR WILLINGNESS TO ACCEPT LIABILITY UNDER THE THIRD PARTY POLICY REGARDLESS OF THE U.S. GOVERNMENT'S HANDLING OF THE CLAIM AGAINST IT. ALSO, THE INJURED PARTY'S NEW LAWYER HAS ESTABLISHED CONTACT WITH INSURER AND FORMAL PRESENTATION OF THE CLAIM (TO THE LIMIT OF INSURER'S LIABILITY UNDER THE POLICY) WILL BE MADE PROMPTLY. INSURER PLANS TO MAKE FULL PAYMENT AS REQUIRED BY POLICY.

2. WITH RESPECT TO INSURER'S BASIS FOR CONSIDERING CLAIM TO BE EXCESSIVE AND FOR RECOMMENDING A FAIR SETTLEMENT, THEY ADVISE AS FOLLOWS:

(A) "IN VENEZUELA, AN INJURED PARTY CONSIDERS HIMSELF 'LUCKY' IF THE TORT FEASOR HAPPENS TO CARRY ADEQUATE THIRD PARTY LIABILITY COVERAGE.

(B) "INSURERS ALWAYS STRIVE FOR AN OUT-OF-COURT SETTLEMENT.

(C) "WHEN A DETAILED CLAIM SUCH AS THE ONE PRESENTED BY STACCHIOTTI IS INTRODUCED IN COURT, THE RULES OF EVIDENCE PROVIDE FOR THE CORROBORATION IN COURT BY THE PERSONS AND INSTITUTIONS HAVING ISSUED INVOICES AND RECEIPTS FOR SERVICES RENDERED IN CONNECTION WITH THE INJURIES SUSTAINED. DOCTORS

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AND ADMINISTRATORS ARE NOT THAT OBLIGING.

(D) "COUNSEL FOR THE CLAIMANDS ALWAYS RECOMMEND SETTLEMENTS.

(E) "IT IS NOT CLEAR FROM THE DOCUMENTATION SUBMITTED BY STACCHIOTTI WHAT BENEFITS IF ANY HAVE BEEN RECEIVED THROUGH THE PETROLEUM INDUSTRY CONTRACT (AS AN EMPLOYEE OF A SERVICE CONTRACTOR, HE IS ENTITLED TO THE SAME INCREASED BENEFITS AS ENJOYED BY OIL COMPANY EMPLOYEES), TITLE IV OF THE LABOR LAW AND/OR THE SOCIAL SECURITY SYSTEM. THIS CONSIDERATION BECOMES PERTINENT WHEN HE BASES HIS CLAIM ON AMOUNTS EXPANDED FOR PAST AND FUTURE CURE, LOSS OF EARNINGS AND A PARTIAL PERMANENT DISABILITY.

(F) "AS THE INSURER WILL PAY US \$6,977.00 FOR THE BODILY INJURY CLAIM, WE SUGGEST THAT THE OFFER OF SIMILAR AMOUNT BE CONSIDERED REASONABLE AND FAIR SETTLEMENT."

3. ACCORDING TO INSURER, MATCHING BY THE US. OF INSURANCE COMPANIES PAYMENT SHOULD BE ADEQUATE IN ACCORDANCE WITH LOCAL PRACTICE TO SETTLE CLAIM OUT-OF-COURT. HOWEVER, IN VIEW OF SERIOUS INJURIES TO CLAIMANT RESULTING IN PARTIAL DISABILITY AND THE EXISTING POTENTIAL FOR ADVERSE PUBLICITY, THE EMBASSY RECOMMENDS THAT THE DEPARTMENT CONSIDER AT LEAST DOUBLING THE INSURER'S SUGGESTED PAYMENT. WHILE WE HAVE NO ASSURANCE THAT CLAIMANT WOULD ACCEPT SUCH AN OFFER, WE BELIEVE OUR RECOMMENDATION WOULD CONSTITUTE A FAIR AND JUST SETTLEMENT OF THIS CLAIM WITHOUT DEPARTING SUBSTANTIALLY FROM LOCAL PRACTICE.
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